MT LEGISLATIVE HISTORY

Chapter 515 1981

Bill (H) 761 S_____ Original bill & hist. ✓C

H. Committee on State Administration

S. Committee on Judiciary

Hearing Date(s)	Feb 18	✓C	Mar 16	✓C
	_____	___C	Mar 23	✓C
	_____	___C	_____	___C
	_____	___C	_____	___C
Date Out	Feb 18	✓C	Mar 23	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 761

INTRODUCED BY FABREGA, JENSEN, VINCENT, METCALF, ANDREASON, D. O'HARA, R. MANNING, SCHULTZ, WALLIN, HARPER, ROBBINS, KITSELMAN, JACOBSEN, BERGENE

BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND INDUSTRY

IN THE HOUSE

February 13, 1981	Introduced and referred to Committee on State Administration.
February 18, 1981	Committee recommend bill do pass as amended. Report adopted.
February 19, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 91; Noes, 8. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on Judiciary.
March 24, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1981	Motion pass consideration.
March 27, 1981	Second reading, concurred in.
March 28, 1981	Third reading, concurred in as amended. Ayes, 48; Noes, 1.

IN THE HOUSE

March 28, 1981	Returned from Senate with amendments.
April 8, 1981	Second reading, amendments not concurred in.
	On motion Free Conference Committee requested.
	Free Conference Committee appointed.
April 15, 1981	Free Conference Committee reported and dissolved. Transmitted to Senate.

IN THE SENATE

April 17, 1981	Free Conference Committee report adopted.

IN THE HOUSE

April 20, 1981	Returned from Senate.
	Second reading, Free Conference Committee report adopted.
	On motion rules suspended and Free Conference Committee report placed on third reading this day.
	Third reading, Free Conference Committee report adopted. Ayes, 95; Noes, 0.
April 22, 1981	Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 761

INTRODUCED BY

BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 71-3-513, MCA, TO REQUIRE THE COUNTY CLERK AND RECORDER TO NOTIFY THE OWNER OF PROPERTY SUBJECTED TO A MECHANIC'S LIEN; AND PROVIDING FOR A FEE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-513, MCA, is amended to read:

"71-3-513. Filing with county clerk -- notification of owner -- fee. (1) The county clerk must endorse upon every lien the day of its filing and make an abstract thereof in a book by him to be kept for that purpose and properly indexed, containing the date of the filing, the name of the person holding the lien, the amount thereof, the name of the person against whose property the lien is filed, and the description of the property to be charged with same.

(2) Within 5 business days after the filing of the lien, the county clerk shall notify in writing the person against whose property the lien is filed of the amount of the lien, the name of the person holding the lien, and the description of the property that it is charged against.

(3) The county clerk is entitled to a fee of 50 cents, payable by the person filing the lien, in addition to other fees authorized in Title 7, chapter 4, part 26, for each lien filed under this part to compensate the county for the expense of notifying the property owner."

-End-

STATE ADMINISTRATION
FEBRUARY 18, 1981
RM 436

The meeting of the State Administration Committee was called to order at 8:00 a.m. on February 18, 1981, with Chairman Jerry Feda presiding. All members were present except Representative Azzara and Representative Dussault who was excused.

Chairman Feda opened the hearing on HB 724.

HOUSE BILL 724-SPONSOR, Representative Neuman, introduced this bill which creates an exception to the conflict of interest provisions within the code of ethics statutes that prohibit conflict between public duty and private interest as required by the Montana Constitution. This amendment permits public officers and employees to contract with an interested party whenever geographical restrictions would make a contract otherwise unavailable to a local government.

PROPONENTS

DALE KLOCK, Cascade businessman, stated that he is on the city council and has been prohibited from serving the community in his business capacity. This bill would allow businessmen to contribute to the community in both public and private interests. Mr. Klock made apologies for Mr. Ellis who was not able to attend the meeting but was one of the main sponsors of the bill. A copy of Mr. Ellis' written statement is EXHIBIT 1 of the minutes.

CHARLES CUNNINGHAM, Cascade, MT, was not present to testify but presented a written statement to the committee. A copy of his statement is attached and is EXHIBIT 2 of the minutes.

Others who were present at the hearing but did not testify are listed on the Visitors' Registration form.

OPPONENTS

There were no opponents to House Bill 724.

QUESTIONS BY THE COMMITTEE:

Mueller: Is there any protection provided in this bill against overcharging by the local businessmen?

Neuman: Free enterprise is the protection.

Representative Neuman closed the hearing on HB 724.

HB 754 (cont.)

QUESTIONS BY THE COMMITTEE:

Sales: Mr. MacKenzie, there is probably more competition in the market for tax exempt bonds then there has ever been before in the history of Montana, wouldn't you agree?

MacKenzie : Yes, and it is true that on smaller bond issues, $100,000 or less, D.A. Davidson typically will not bid on them because the profitability is not there. We facilitate the issue by referring it to another company that we know would be interested. Therefore the interest rate on small issues is usually higher.

Sales: Wouldn't you agree that the pre that has been put on the market by things like the state housing board bonds and industrial revenue bonds and all this type of financing that has increased so much in the past few years, is in direct competition with the schools getting financing?

MacKenzie: I do not believe so because you are talking about two different kinds of credits.

Following further questions, Representative Bengtson closed the hearing on HB 754. She said that she wanted to point out that this bill is optional. The bonds can still be offered to private bond companies. This bill is mainly aimed at schools that have trouble selling their bonds. She said that Montana is one out of only thirteen states that do not offer some type of help for school capital outlays. There are a multitude of methods of tapping this problem. The structure for this bill has been patterned after the board of housing we are not "plowing any new ground".

HOUSE BILL 761-SPONSOR, Representative Fabrega, introduced this bill to the committee. This bill requires the county clerk and recorder to notify a property owner within five business days after a mechanic's lien is filed against the owner's property. The clerk may collect a fee of 50 cents from the person filing the lien to compensate the county for expenses in notifying the property owner. Representative Fabrega said that he would like an amendment that would increase the fee collected by the clerk.

PROPONENTS

WILLIAM (BILL) ROMINE, Montana Clerks & Recorders, stated that they would like to see the lien served by the person filing the lien instead of the clerk & recorders office. Sometimes a lien is filed on property and the owner named

HB 761 (cont.)

on the lien is no longer the owner. This can cause problems when the lien is delivered. A certification at the end of the lien, similar to certifications used in legal papers filed in court, could merely state that a copy of the lien was mailed to the owner. He stated that if this is not acceptable to the committee then at least the fee should be increased to cover the time and expense of sending the notice. A copy of Mr. Romine's testimony and his proposed amendment is attached and is EXHIBIT 5 of the minutes.

OPPONENTS

There were no opponents present for HB 761

QUESTIONS BY THE COMMITTEE:

Pistoria: Do you agree with Mr. Romine's suggested amendment?

Fabrega: I do not think it should be changed, how would the lien filer prove that he had mailed copies, and so forth. I would urge the committee not to make this amendment.

Representative Fabrega closed briefly on HB 761.

HOUSE BILL 723, SPONSOR, Representative Bertlesen, presented this bill to the committee. This bill directs the Administrative Code Committee to study procedures and methods for terminating administrative rules affecting the environment and natural resources of the state. Included in the study is a review of other states' laws providing for the termination or sunset of certain administrative rules. The committee must prepare a report of its study, including any recommended legislation, by January 15, 1983. Representative Bertelsen said that David Niss, with the legislative council, would be available to answer any questions the committee may have concerning this legislation.

PROPONENTS

MONA JAMISON, Governor's office, stated that the governor urges support of this bill. She said that there have been a number of bills that have been introduced that relate to the suspension of rules but none of them have been adequately explored. She suggested an amendment to the bill on page 2, line 17, that would clarify the term "rules of administrative

Representative Moore closed the hearing on House Bill 663. He stated that he has no objections to the amendments that have been suggested. The purpose of this bill is to make the state more cost effective and provide standardization. It will, as stated, create a "super agency" but this committee will get input from all the agencies. This will provide better management throughout the system.

EXECUTIVE SESSION

HOUSE BILL 649 — DO NOT PASS

Representative Mueller made a DO NOT PASS motion on HB 649. Discussion followed.

Representative O'Connell made a substitute motion that HB 649 DO PASS. Following discusion, a roll call vote was taken and the motion failed with 6 YES, 12 NO and 1 absent. See roll call vote sheet for vote.

HOUSE BILL 584 — DO PASS

Representative O'Connell moved a DO PASS on HB 584. Question was called on the motion and a vote carried unanimously with those present.

HOUSE BILLS 503 - 637

Representative Spilker made a motion that an amendment be drafted to provide funding for this benefit through employer contributions. Discussion on this followed. A vote was taken on the motion and carried. Representatives Kanduch and Smith voted no on this motion.

Representative Spilker made a motion to TABLE HB 503. A vote was taken and carried unanimously.

HOUSE BILL 761 — DO PASS AS AMENDED

Representative McBride moved an amendment to strike 50 cents and insert $2. Representative Mueller seconded the motion. A vote was taken and carried unanimously. Representative McBride made a motion that HB 761 DO PASS AS AMENDED. A vote was taken and carried unanimously.

EXHIBIT 5

NAME William L. Romine BILL No. H.B. 761

ADDRESS P.O. Box 1691 DATE 2-18-81

WHOM DO YOU REPRESENT Mont. Clerks & Recorders

SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The clerks agree that notice of a mechanic's lien should be given to the owner. However, they feel that the person filing the lien should have the responsibility of giving the notice. A certification, at the end of the lien, similar to certifications used in legal papers filed in court, could merely state that a copy of the lien was mailed to the owner. the certification would state the date the copy was sent, which would generally be the same day the lien is filed.

If this is not acceptable to the committee, at least the fee should be increased to $1.00 to cover the time & expense of sending the notice.

FORM CS-34
1-81

Proposed Amendments
From Bill Romine, Clerk & Recorders Assn.

Amend Title

Line 6, strike words "the county clerk and Recorder To

Line 7, strike word "notify" and insert "notification t

Line 8, strike entire line.

Amend section 1.

Strike lines 20 then 25, page 1 and line 1 then 4 page

Insert following:

(2) the clerk shall not file the lien unless there is attached thereto a certification by the lienholder or his agent that a copy of the lien has been served upon the owner of the property named in the lien. Service may be made by delivering a copy to the owner OR by mail it to him at his last known address. The certification shall state whether service was made by delivery OR mail

Not accepted by [illegible]

HOUSE Fin. Com. COMMITTEE

BILL HB 761 Date

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPP
William L. Romine	Helena ~~Clerk + Recorder~~	Clerk & Recorders		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 16, 1981

The forty-fourth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL 621:

TO DEFINE AND PROHIBIT COMPUTER-RELATED CRIME.

Yielding the chair to Vice Chairman O'Hara for the hearing of this bill, Senator Anderson presented the bill. He read from an article written by Sylvia Porter, appearing in THE INDEPENDENT RECORD (attached Exhibit A), relative to computer crime, and pointed out that many of these crimes were never reported because doing so would jeopardize public trust in institutions such as banks and savings and loan companies. Rather than reporting such crimes, these companies take out insurance to cover the losses, and this forces up the cost of the services they provide.

Jim Hughes, representing Mountain Bell, testified in support of the bill as shown on his attached testimony sheet.

George Bennett, representing the Montana Bankers Association, testified in support of the bill and said that it was patterned after federal legislation.

Rep. Meyer spoke as chief sponsor of the bill, saying that he would close the discussion. He said that the world is becoming a computer world, and that this legislation is needed.

Senator Mazurek asked Marge Johnson, representing Mountain Bell, if "may" on line 10 of page 20 should not be changed to "shall". She said that this change would be all right with her.

Senator O'Hara asked if an accounts receivable record was dumped out of a computer, could it ever be recovered. Marge Johnson replied that a large cost would be involved in retrieving these records, and, in the cases where the records were stored only in the computer, it would not be possible to recover them at all.

Senator Berg questioned the harshness of the penalty as

support of the bill, gave the committee some of the background on its conception and said the name of the department as an agency which can request action by the county attorney should have previously been put in the statute.

CONSIDERATION OF HOUSE BILL 761:

TO REQUIRE COUNTY CLERK AND RECORDER
TO NOTIFY OWNER OF PROPERTY SUBJECTED
TO A MECHANIC'S LIEN.

Rep. Fabrega, House District 44, presented the bill and told of an elderly couple's having a fire in their home which the insurance company settled. The couple got a contractor to repair the damage. After ordering nine thousand dollars worth of materials, the contractor left for Idaho, leaving the couple in worse shape than if they had had no insurance. Rep. Fabrega suggested there may be some amendments relative to the filing required by the clerk and recorders.

Bill Romine, representing the clerk and recorders, passed out suggested amendments (attached Exhibit D) and testified as shown on his attached testimony sheet, adding that the clerk and recorder's job is only custodial, not that of dispensing information. He presented a mechanic's lien which had been filed (attached Exhibit E), and said that a flat two-dollar fee would never compensate sending the notice to over one hundred people, many of whose addresses were unknown. He said that with his amendments the clerk and recorders would support the bill, but without them they would have to oppose. He presented additional papers relating to mechanic's liens (attached Exhibits F through J).

Opposition to the bill was offered in the form of a letter (attached Exhibit K) from Mrs. Joyce Lippert, Clerk and Recorder from Big Horn County.

In closing, Rep. Fabrega said that an official channel is necessary to send such a notice, and the responsibility therefore should be on the clerk and recorders. He suggested that he work with some of the committee and Bill Romine to work out something agreeable to everyone. In cases of multiple ownerships he said the notice could be sent to only the owner of record.

Senator S. Brown offered an amendment to the amendment submitted by the clerk and recorders, and agreed to meet with Bill Romine and Rep. Fabrega to work on the bill.

DISPOSITION OF HOUSE BILL 626:

Senator O'Hara stated that Senator B. Brown, Rep. Keedy,

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date March 6,

NAME	PRESENT	ABSENT	EXCUSED
~~Anderson, Mike, Chr. (R)~~	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

NAME William L Romine BILL No. H.B. 761

ADDRESS Box 1691 Helena DATE 3-16-81

WHOM DO YOU REPRESENT Clerk + Recorders

SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The association supports the concept of notice being given to the owner of the property when a mechanic lien is filed. However, the clerks believe the lienor should ~~the~~ be the one to give notice. In many instances there are numerous owners named. (See exhibit, which shows 167 owners). In other instances the addresses are not shown + it is difficult, if not impossible, for the clerk to find the address. In some instances the named owner is not the real owner, and if this is known by the clerk, is he to send notice to the named owner or the true owner.

Since the mechanic lien statute must be strictly followed any errors created by the lienor should not become the responsibility of the clerk

The ~~amendment~~ submitted by the clerks shifts the burden back to the lienor, where it should be. It is his responsibility to faithfully follow the statute, and he should be required to give the notice. The clerk is a filing officer only, and should not get involved in the perfecting process at ALL.

FORM CS-34
1-81

44

NAME: Joanne Peres DATE: 3/16/81

ADDRESS: Fort Benton

PHONE: 622-5151

REPRESENTING WHOM? Clerk & Recorders Assn. Chouteau County

APPEARING ON WHICH PROPOSAL: HB 761

DO YOU: SUPPORT? _____ AMEND? ✓ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Merrell A. Klundt DATE: 3-16-81

ADDRESS: Billings, Mont, Yellowstone County

PHONE: 252-5181 Ext 310

REPRESENTING WHOM? Clerk & Recorders

APPEARING ON WHICH PROPOSAL: HB 771 761

DO YOU: SUPPORT? _____ AMEND? ✓ OPPOSE? ✓

COMMENTS: Have Testimony To Submit

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

COMMITTEE ON Judiciary

HB 761
HB 621 HB 536
HB 537 HB 535

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Opp
William L. Romine	Clerk & Recorders	HB. 761	Amend	
Susan Lust	Mt Hon. Ed. Assoc	HB536		
[illegible]	Mountain Bell	HB621	X	
Jim Hughes	MOUNTAIN BELL	HB621	X	
[illegible] T. Bennett	Mont. Bkrs Ass'n	HB621	X	
A. L. Pugs	Flathead Co			
Michael G. Hurley	Dept. of Revenue	HB. 535 H.B. 536 H.B. 537	X	
Helen Lynch	Clerk & Recorders	HB761	Amend	
Joanne Fires	" "	HB761	"	
Merrill A. Kluesdl	" "	HB761	"	

(Please leave prepared statement with Secretary)

Proposed Amendment to H.B. 761, submitted by Clerk & Recorders Assn.

1. Amend Title:

   Line 8, strike words "THE COUNTY CLERK AND RECORDER TO".

   Line 9, strike word "NOTIFY" and insert "NOTIFICATION TO".

   Line 10, strike entire line.

2. Amend Section 1, line 15, by striking the word "FEE".

3. Amend Section 1 further:

   Strike lines 22 through 25, page 1 and lines 1 through 6, page 2,

   Insert following:

   (2) THE CLERK SHALL NOT FILE THE LIEN UNLESS THERE IS ATTACHED THERETO A CERTIFICATION BY THE LIEN HOLDER OR HIS AGENT THAT A COPY OF THE LIEN HAS BEEN SERVED UPON THE OWNER OF THE PROPERTY NAMED IN THE LIEN. SERVICE SHALL BE MADE BY DELIVERING A COPY TO THE OWNER OR BY MAILING IT TO HIM AT HIS LAST KNOWN ADDRESS. THE CERTIFICATION SHALL STATE WHETHER SERVICE WAS MADE BY DELIVERY OR MAIL.

NOTICE AND CLAIM OF MECHANIC'S LIEN

LeROY D. SWIER,

Claimant,

-vs-

JANES G. HOUBY and
ADRIANNA B. HOUBY,

Owners,

and

THE RUSHMORE CORPORATION,

Contractor.

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, LeROY D. SWIER, did furnish labor and material for carpet installation upon that certain condominium located in the Mountain Village, Madison County, Montana, more particularly located on lands described as follows, to-wit:

> Unit B-12, Stillwater Condominiums, Big Sky of Montana, Inc., Mountain Village, Madison County, Montana, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of Madison County Montana,

the record title of which stands in the name of the Owners, and tha they are the owners and purported owners of the same.

That between the dates of March 1, 1974 and March 5, 1974 at the special instance and request of the said JANES G. HOUBY and ADRIANNA B. HOUBY, Owners, and THE RUSHMORE CORPORATION, Contractor and at the agreed and reasonable price of One Hundred Thirty and 50/100ths Dollars ($130.50), the Claimant supplied all of the labor and material for installation of carpet in the interior of the said

NOTICE OF MECHANIC'S LIEN

Notice is hereby given by F. L. DYE CO., INC., a Montana Corporation of 529 East Main Street, Bozeman, Montana - 59715, herein referred to as lienholder, that the lienholder did supply unto ORA CLARK, JAMES VERN MEEKS, MARY MEEKS, ROBERT P. NELSON, MARY RUTH NELSON, ROBERT W. REILLEY, FREDERICK J. SHIVELY, R. S. N., INC., DAN J. LEWIEN and ROSALY LEWIEN, as owners, sellers and purchasers, dba THE LONGBRANCH SALOON, labor and certain material for plumbing on the following described real property situated in the County of Madison, State of Montana, to-wit:

> The West One-Half (W½) of Lot 15 in Block 2 of the Original Townsite of Ennis, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Madison County, Montana.

The lienholder furnished plumbing and materials to the said owners dba THE LONGBRANCH SALOON, and the gross amount due and owing to lienholder is the total sum of Five Hundred Forty Two Dollars ($542.00).

Ninety days have not elasped since that last portion of said labor and materials were supplied or furnished to the owners, dba THE LONGBRA SALOON.

The lienholder has completed, or has completed as far as possible under the conditions existing, the work contracted for.

That ORA CLARK, JAMES VERN MEEKS, MARY MEEKS, ROBERT P. NELSON, MARY RUTH NELSON, ROBERT W. REILLEY, FREDERICK J. SHIVELY, R.S.N., INC., DAN J. LEWIEN and ROSALYN LEWIEN, are the owners, sellers and purchasers of the said real property which is sought to be charged with this lien, which real property is hereinabove described.

F. L. DYE CO., INC. claims a lien upon all of the

Know All Men by These Presents:

THAT Northwest Erection, Inc. a Montana corporation

did during a period of time commencing on the 20th day of August A. D., 1979 and ending on the 19th day of December A. D., 1980, perform certain work and labor and furnish material, machinery and fixture for that certain building and improvements erected upon that certain lot, piece or parcel of land hereinafter described; that the value of the said work, labor, material, machinery and fixtures amounted to the sum of $1,537,691.00 Dollars as will more fully appear, reference being had to an itemized statement of account of said work, labor, material, machinery & fixtures hereunto annexed, and marked "Exhibit A," and hereof made a part; that said work, labor, material, machinery & fixtures was reasonably worth the prices charged therefor; that said work, labor, material machinery and fixtures

and the whole thereof was done at the special instance and request of Spring Creek Coal Company, Fred J. Early Company Morgan Manufacturing, and Paper, Calmenson Company the owner and general and contractors of said property and improvements and the person for whose immediate use and benefit the said work, labor, material, machinery and fixtures was done; that, desiring to avail itself of the benefit of Part 5, Chapter 3, Title 71, M.C.A., ~~Chapter 5 of Title 45 of the Revised Codes of Montana, 1947,~~ it is the undersigned's intention to file this statement of account with the County Recorder of the said county of BIG HORN within the time in that behalf provided by law to secure the payment of the amount due upon said account; that no part of the amount aforesaid has been paid except as shown on the account attached hereto, and that the sum of $1,537,691.00 Dollars is justly due and unpaid on said account after allowing all credits and offsets. That the certain lot piece or parcel of land hereinbefore mentioned, and to which this lien applies and attaches situate, lying and being in NW¼ SW¼ Section 19, Township 8S, Range 40E County of BIG HORN State of Montana, particularly described as follows, to-wit:

To the extent of the building or structure and one acre of real property surrounding it, or on which it is situated, known more specifically as storage to loadout conveyor - conveyor # 4.

Vern E. Cheff Jr. 2-25-81

STATE OF MONTANA, }
County of Missoula } ss.

NORTHWEST ERECTION, INC.
By: Vern E. Cheff, Jr.
Its: President

Vern E. Cheff, Jr. being duly sworn, deposes and says: That he

Exhibit

"EXHIBIT A"

DESIGNATION OF OWNER

First Continental Corp., a corporation, either as the legal owner, equitable owner, contract purchaser, permittee, grantee, lessee or entitled to the right to either repair, construct, or otherwise work on fences and fence improvements as specified in the Mechanic's Lien, by agreement, consent, estoppel or laches, or by a combination of any of the above, and

Christian Land and Cattle Co.

Eugene McFerran and Frances McFerran

Leachman Cattle Co.

Robert Downs

The State of Montana

The United States of America, Trustee

The heirs, devisees, representatives and assigns of Edward K. Macer, deceased

John R. Scott, Jr.

Donald Lee and Pauline Lee

Harriet J. Josephson

Pirrie J. Trask and Margaret J. Trask

James Trask Cox.

Charles Finley

Kenneth L. Finley and Esther D. Finley

either as the legal owners, equitable owners, contract sellers, permittors, grantors, lessors or as parties who by agreement, consent, estoppel or laches or by a combination of any of the above have permitted, allowed or acquiesced in the repair, construction, and other work on fences and fence improvements, as in this Mechanic's Lien specified all of which parties, including First Continental Corp, are collectively and severally herein referred to in this Mechanic's Lien as OWNER.

DATED this 10th day of October, 1980.

/s/ Eugene Klein

LIEN CLAIMANT

TO: CLERK AND RECORDER, MADISON COUNTY, STATE OF MONTANA AND
TO WHOM ELSE IT MAY CONCERN:

PLEASE TAKE NOTICE that MARION C. MUSGROVE, doing business under the name and style of "THE FLOOR STORE", at 701 Utah Ave., Butte, Montana, has and claims a Mechanic's Lien on the property hereinafter described:

1. The name and residence of the Lienor is: Marion C. Musgrove, residing at 1216 W. Aluminum St., Butte, Montana.

2. The name and owners of the property hereinafter described and against whose interest therein a lien is claimed is J. D. EASLEY and MAE EASLEY, and/or ROBERT D. FORD, of McAllister, Madison County, Montana, and as far as Lienor can determine such person or persons are the owner of said property.

3. The name of the person by whom the Lienor was employed and to whom Lienor furnished labor and materials is ROBERT D. FORD, of McAllister, Montana.

4. The labor and materials performed and furnished are as follows:

Furnished and installed floor covering, base, underlayment and carpet, of the reasonable and agreed total cost of $2069.33, upon which a payment of $300.00 has been paid, leaving a balance due, owing and unpaid of the sum of $1769.33. That all the labor and materials were furnished and completed on March 6, 1974.

5. The property upon which said work and materials were furnished is located in Madison County, Montana, and consists of a log structure, designated as "McTana Bar and Cafe",McAllister, Montana

Lienor is informed and believes that the description of said real property upon which such structure is located is drescribed as follows:

A parcel of land 150 feet by 266 feet, in the Northwest Quarter of the Southeast Quarter of Section 33, Township 4 South Range 1 West, M. P. M., in McAllister, Madison County, Montana.

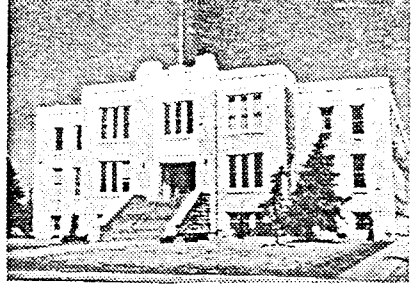
That Lienor, doing business as "The Floor Store", has and claims a Mechanic's lien for the agreed value of the materials and labor furnished upon said real property, improved and to be improved thereby, and upon such improvements, for the amount unpaid as aforesaid, pursuant to the statutes of the State of Montana, in such case made and provided.

THE FLOOR STORE
Marion C. Musgrove

STATE OF MONTANA)
COUNTY OF SILVER BOW) ss

Marion C. Musgrove, being first duly sworn on oath deposes and says: That she is the owner of The Floor Store, the same being located in Butte, Montana, and is the lienor described in the foregoing Notice of Lien; that she has read said

BIG HORN COUNTY



HARDIN, MONTANA 59034

March 11, 1981

Senator Mike Anderson, Chairman
Senate Judiciary Committee
State of Montana
Capitol Building
Helena, MT 59601

Dear Senator Anderson:

House Bill No. 761 requiring the county clerk and recorder to notify the owner of property subjected to a mechanic's lien has been assigned to your committee for hearing. I would like to comment on the proposal.

The owner of any property subjected to a lien certainly should have the right of a notice. However, I don't feel that it should be in the scope of the clerk and recorder's duties to perform. The lienholder should be required to give whatever notices are deemed proper.

The bill is vague and does not define the proper method of notification. It merely says, "shall notify in writing". I could whip out a note and slip it to the owner of the property and apparently satisfy this legislation.

There are many reasons why I feel this duty shouldn't be imposed on the clerk and recorder. There is no authority to refuse a lien for the fact that it is incomplete. There are numerous liens of record that more or less abstract the owner and any other person or organization that has ever had an interest in the property without any addresses. As long as the attorney or whoever is doing the lien has researched the ownership, why should it have to be done again? The responsibility of notification should lie with that person.

Section 7-4-2611 (2), M.C.A. 1979 sets forth the standard duties of the clerk as follows: (a) take charge of and safely keep or dispose of according to law all books, papers, maps, and records which may be filed or deposited in the clerk's office. This certainly does not include abstracting.

Your consideration of my comments will be appreciated.

Sincerely,

Joyce Lippert

Joyce Lippert (Mrs.)
Clerk and Recorder

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
MARCH 23, 1981

The fiftieth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL 815:

TO PROVIDE PROCEDURES AND GUIDELINES FOR TERMINATING THE LEGAL RELATIONSHIP BETWEEN PARENT AND CHILD.

The bill was presented by Rep. Kemmis, District 94, as having the purpose of bringing uniformity and coherence to the laws governing the termination of the relationship between parent and child.

John Madsen, representing the S.R.S., said that this bill would strengthen the rights of parents and children, and that it is patterned after a Colorado law. His written testimony is attached.

David Stewart supported the bill as shown on his attached written testimony, and suggested an amendment to the bill which would give a child's natural parents the "right of first refusal" to adopt their child if their rights were previously terminated.

Russell Cater, representing the Montana Legal Services, supported the bill because it is fair to the parties concerned. He said that a Colorado judge thinks the bill works very well in Colorado.

Senator Crippen asked Rep. Kemmis about the proposed amendment raised by Mr. Stewart, and was told that it may present problems in the interests of the children. He felt the bill contained sufficient safeguards along the line raised by the amendment, but said that he would not oppose it.

CONSIDERATION OF SENATE JOINT RESOLUTION 30:

REQUESTING AN INTERIM STUDY OF DELAYS OF APPEALS IN CRIMINAL CASES.

Senator Aklestad, District 6, presented the resolution,

DISPOSITION OF HOUSE BILL 758:

Senator Tveit moved that the bill BE CONCURRED IN. Senator Mazurek was in the House at the time of the motion, and committe members felt he should be allowed to vote on this bill. Chairman Anderson ruled that whenever matters which have received a tie vote are brought up again in committee, any member not present will be allowed to cast his vote upon returning to the room. A roll call vote was then taken, which, when Senator Mazurek's vote was added, revealed that the motion failed on a six to four vote, with Senators O'Hara, Tveit, S. Brown, and Berg voting in favor of the motion. It was unanimously decided to reverse the roll call vote and bring the bill out on an adverse committee report.

DISPOSITION OF SENATE JOINT RESOLUTION 30:

Senator S. Brown moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 5:

Senator O'Hara moved to reconsider action taken on the bill Saturday, and his motion carried unanimously. He then moved that the bill be amended as decided on Saturday, and that the two amendments which are numbered "4" and "6" on the Committee Report (attached to the minutes of March 21), be added. His motion passed unanimously. Senator Berg moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 761:

Senator S. Brown moved to amend the bill as shown on the attache Committee Report, and his motion passed unanimously. Senator S. Brown then moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 813:

Chairman Anderson submitted some proposed amendments which had been suggested by the School Board Association through Chad Smith (as shown on attached Committee Report). Senators S. Brown and Mazurek stated that such officials are already sufficiently protected, and that there is no widespread need for such a bill. Senators Tveit and Anderson discussed instances of suits illustrating the need for the bill. Senator S. Brown said that if such a law passed, it should apply to teachers and public officials other than school board members rather than covering just one segment. Senator Tveit moved that the proposed amendments be adopted, and his motion carried over the objection of Senators Berg, S. Brown and Olson. Senator Tveit moved the the bill BE CONCURRED IN AS AMENDED, and his motion passed over the objection of Senators

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date MARCH 23, 19

NAME	PRESENT	ABSENT	EXCUSED
~~Anderson, Mike, Chr. (R)~~	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

6

March 24, 1981

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 761 be amended as follows:

1. Title, Lines 8 and 9.
Following: "REQUIRE" on line 8
Strike: remainder of line 8 through "NOTIFY" on line 9
Insert: "NOTIFICATION TO"

2. Title, Lines 9 and 10.
Following: "LIEN" on line 9
Strike: remainder of line 9 through "FEE" on line 10.

3. Page 1, line 15.
Following: "owner"
Strike: "-- fee"

4. Page 1, line 22 through line 6 on page 2.
Following: "(2)" on line 22
Strike: remainder of line 22 through line 6 on page 2.
Insert: "The clerk shall not file the lien unless there is attached thereto a certification by the lien claimant or his agent that a copy of the lien has been served upon each owner of record of the property named in the lien. Service shall be made by personal service on each owner or by mailing a copy of the lien by certified or registered mail to each owner's last known address. The certification shall state whether service was made by delivery of certified or registered mail "

HOUSE BILL NO. 761

INTRODUCED BY FABREGA, JENSEN, VINCENT, METCALF, ANDREASON, D. O'HARA, R. MANNING, SCHULTZ, WALLIN, HARPER, ROBBINS, KITSELMAN, JACOBSEN, BERGENE

BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 71-3-513, MCA, TO REQUIRE ~~THE COUNTY CLERK AND RECORDER TO NOTIFY~~ NOTIFICATION TO THE OWNER OF PROPERTY SUBJECTED TO A MECHANIC'S LIEN~~; AND PROVIDING FOR A FEE~~."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-513, MCA, is amended to read:

"71-3-513. Filing with county clerk -- notification of owner ~~-- FEE~~. (1) The county clerk must endorse upon every lien the day of its filing and make an abstract thereof in a book by him to be kept for that purpose and properly indexed, containing the date of the filing, the name of the person holding the lien, the amount thereof, the name of the person against whose property the lien is filed, and the description of the property to be charged with same.

(2) ~~Within 5 business days after the filing of the lien, the county clerk shall notify in writing the person against whose property the lien is filed of the amount of the lien, the name of the person holding the lien, and the description of the property that it is charged against.~~

~~(3) The county clerk is entitled to a fee of 50 cents $2, payable by the person filing the lien, in addition to other fees authorized in Title 7, chapter 4, part 26, for each lien filed under this part to compensate the county for the expense of notifying the property owner~~ THE CLERK SHALL NOT FILE THE LIEN UNLESS THERE IS ATTACHED THERETO A CERTIFICATION BY THE LIEN CLAIMANT OR HIS AGENT THAT A COPY OF THE LIEN HAS BEEN SERVED UPON EACH OWNER OF RECORD OF THE PROPERTY NAMED IN THE LIEN. SERVICE SHALL BE MADE BY PERSONAL SERVICE ON EACH OWNER OR BY MAILING A COPY OF THE LIEN BY CERTIFIED OR REGISTERED MAIL TO EACH OWNER'S LAST KNOWN ADDRESS. THE CERTIFICATION SHALL STATE WHETHER SERVICE WAS MADE BY DELIVERY OF CERTIFIED OR REGISTERED MAIL."

-End-

REFERENCE BILL

April 14, 1981

FREE JOINT CONFERENCE COMMITTEE

ON HOUSE BILL 761

REPORT NO. 1

We, your Free Joint Conference Committee on House Bill 761, met on April 14, 1981, and considered:

Senate Committee on Judiciary Amendments dated March 24, 1981, and

recommend as follows:

Having had under consideration Senate Committee on Judiciary Amendments dated March 24, 1981,

That the House accede to all these amendments,

And further that House Bill 761, reference copy, be amended as follows:

1. Amend page 2, line 12.
Following: "MAIL"
Insert: "with return receipt requested"

And that the Free Joint Conference Committee Report on House Bill No. 761 be adopted.

FOR THE HOUSE

REP. JAY FABREGA

REP. DARRYL MEYER

REP. JOHN VINCENT

FOR THE SENATE

SENATOR BRUCE CRIPPEN

SENATOR JESSE O'HARA

SENATOR JOSEPH MAZUREK

HOUSE BILL NO. 761

INTRODUCED BY FABREGA, JENSEN, VINCENT, METCALF, ANDREASON, D. O'HARA, R. MANNING, SCHULTZ, WALLIN, HARPER, ROBBINS, KITSELMAN, JACOBSEN, BERGENE

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-End-

REFERENCE BILL: Includes Free Conference Committee Report Dated 4-14-81